

REMARKS

Rejected claims 6-8, 12, 13 and 29 have been cancelled without prejudice, and allowed claim 3 has been cancelled and rewritten in independent form as new claim 31 presented herewith.

Claims 1, 2, 4, 5, 10, 11 and 30 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Rydell et al '638. This rejection is respectfully traversed with respect to these claims as amended herein.

These claims as amended all specifically recite “a pair of yoke-shaped members mounted in spaced substantially plane parallel array, with each member including a slotted opening extending inwardly between tines of the yoke from a forward edge thereof, and with the slotted openings of the members substantially transversely aligned to receive therein the tissue to be treated,” and “a cutter mounted intermediate the spaced members for movement in a plane parallel to and spaced from the members between an open configuration in which the cutter is displaced from obstructing transverse alignment of the slotted openings, and a closed configuration in which a cutting edge of the cutter passes through the transverse alignment of the slotted openings for transversely severing tissue disposed in the slotted openings and across the spacing of the members,” and “an actuator linked to the cutter for controlling movement thereof in the plane spaced from the members between the open and closed configurations.”

In addition, the dependent claims are further limited by such specific recitations as “the members are formed as substantially planar sheets with tines of each member extending distally from the distal end of the body,” or “the width of each of the slotted openings convergently tapers inwardly from the forward edge,” or the cutter includes a contoured surface for engaging a reference surface to transform translational movement of the cutter into translational and lateral movement relative to the anvil,” or “the contoured surface of the cutter includes an edge thereof remote from the cutting edge disposed to engage the reference surface that is fixed relative to the body for urging the cutting edge toward the anvil in response to translational motion of the cutter in a direction toward the proximal end of the body,” or “the reference surface is disposed to resiliently bias the cutter toward the anvil in engagement with at least a portion of the contoured surface of the cutter.”

These aspects of the claimed invention facilitate severing tissue structures such as vessels that are stabilized for transverse severing by being positioned transversely within the slotted opening of adjacent members, without having to be grasped or pinched, for transverse cutting through such a positioned tissue structure via a cutter mounted for movement in a plane between and parallel to the members. Also, lateral movement of the cutter for transverse severing of the tissue structure

promotes retaining the tissue structure within the slotted openings without having to grasp the tissue structure.

These aspects of the claimed invention are not disclosed or even suggested by the cited reference that relies upon grasping or pinching tissue with sufficient compressive force to inhibit the blade from essentially pushing the grasped tissue out of the grasped condition as the blade pushes through the pinched tissue.

Nor is there any disclosure in Rydell et al '638 of a pair of spaced members, each having slotted openings oriented *forward* for receiving a tissue structure such as a vessel in end-on relation into the slotted openings, in any manner resembling Applicants' claimed invention. This promotes continuous forward movement of the claimed apparatus, for example, through a network of side-branch vessels during harvesting of a saphenous vein from a patient's leg. At best, Rydell et al '638 merely discloses closed-end looped jaws, each with a side slot as observed by the Examiner that offers no end-on openings and that must align with the cutter blade as the jaws grasp or pinch tissue for cutting. And, the jaws of Rydell et al '638, operating as RF electrodes, are understood to promote induced short-circuiting between jaws/electrodes through the cutter blade that spans between them to cut grasped tissue.

In contrast, Applicants' claimed invention positions the cutter blade in a plane of substantially neutral field strength between the defined slotted members operating

as bipolar electrodes. It is therefore respectfully submitted that the pending claims are not anticipated by, but instead are now patentably distinguishable over the cited art.

Allowability of claims 3 and 9, subject to overcoming the basis for objection, is noted with appreciation. Claim 3 has been re-written in independent form as new claim 31 presented herewith, including the contents of all intervening claims, and claims 9 and 10 have been amended merely to correct the new dependency.

Entry of this amendment, which is submitted to condition this application for allowance, is requested. In the event a claim rejection is continued, it is requested that this amendment be entered in order to simplify or clarify the issues for appeal.

Favorable reconsideration is solicited.

Respectfully submitted,
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